

**Decision PROPOSED DECISION OF COMMISSIONER HOUCK  
(Mailed 12/12/2025)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to  
Implement Senate Bill 520 and  
Address Other Matters Related to  
Provider of Last Resort.

Rulemaking 21-03-011

**DECISION SETTING GUIDELINES FOR  
PROVIDER OF LAST RESORT APPLICATIONS****Summary**

This decision sets guidelines for entities other than Investor-Owned Utilities (IOUs) to file an application for Provider of Last Resort (POLR) status and for the Commission to develop situation-specific criteria for eligibility to serve as a POLR. This decision adopts a streamlined version of the approach presented in the *Administrative Law Judge's Ruling Seeking Comment on Procedural Pathway to Address Applications for Provider of Last Resort Status (Ruling)* dated May 28, 2025. The application submitted to the Commission should demonstrate that the applicant meets the requirements set forth in Senate Bill (SB) 520 and shall include supporting evidence demonstrating the applicant meets those criteria. Currently, there are no non-IOU entities expressing intent to serve as a POLR for

all the customers within a given geographic region. There are some entities that have expressed interest in the responsibilities a non-IOU POLR would have, under certain conditions. The guidelines set out here conserve Commission and stakeholder resources until the necessary evidence and data are available for the Commission to consider the fact specific circumstances that an individual applicant seeking non-POLR status may present.

This proceeding is closed.

## 1. **Background**

On March 18, 2021, the California Public Utilities Commission (Commission) opened the instant rulemaking to implement the Provider of Last Resort (POLR) requirements and framework directed by Senate Bill (SB) 520 (Stats. 2019, Ch. 408). SB 520 defined POLR for the first time in statute as “a load-serving entity that the commission determines meets the minimum requirements of this article and designates to provide electrical service to any retail customer whose service is transferred to the designated load-serving entity because the customer’s load-serving entity failed to provide, or denied, service to the customer or otherwise failed to meet its obligations.”<sup>1</sup> Public Utilities Code Section 387(b) also confirms that each electrical corporation is the default POLR in its service territory.<sup>2</sup>

In addition to codifying the IOUs as the default POLRs, Section 387 requires the Commission to ensure “continued achievement of California’s

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<sup>1</sup> Pub. Util. Code Section 387(a)(3).

<sup>2</sup> All subsequent references to Section or Sections are to the Public Utilities Code, unless otherwise specified.

greenhouse gas emission reduction and air quality goals,” to ensure the POLR for each service territory “receives reasonable cost recovery,” and to establish a framework to allow other non-IOU entities to apply and become the POLR for a specific area<sup>3</sup>.

On September 16, 2021, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) dividing the procedural schedule into three phases:

1. Phase 1 examined the existing framework under which the IOUs serve as the default POLRs and addresses minimum POLR service requirements and changes to the existing framework.
2. Phase 2, which is the subject of the instant proceeding, addresses the relevant provisions of SB 520 regarding conditions for determining POLR designations for non-IOU entities.
3. Phase 3 is intended to address all other outstanding issues not addressed in Phases 1 and 2 including, but not limited to, potential recommendations to the Legislature.

On April 18, 2024, the Commission issued Decision D.24-04-009 (Phase 1 Decision), which created or updated certain elements of the regulatory framework, cost recovery mechanisms, and processes governing POLR service provided by IOUs during a mass involuntary return of customers. The Phase 1 Decision updated the Financial Security Requirement and re-entry fee calculations to increase their accuracy; authorized the electric IOUs, as the POLR, to track actual incremental administrative and/or procurement costs during a

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<sup>3</sup> Section 387(h), Section 387(g), and Section 387(d), respectively.

mass involuntary return of customers from Community Choice Aggregation (CCA) or Electric Service Provider (ESP) service; established a financial monitoring process to provide early notice of a potential mass involuntary return of CCA customers to POLR service; and clarified and/or enhanced the existing rules and requirements concerning CCA and ESP registration and deregistration.

On October 24, 2024, Assigned Commissioner Darcie L. Houck issued a *Phase 2 Amended Scoping Memo and Ruling* (Phase 2 Scoping Memo). The Phase 2 Scoping Memo identified a set of threshold questions and two primary topic areas for a second phase of this proceeding. Pursuant to the schedule outlined in the Phase 2 Scoping Memo, on January 10, 2025, Direct Access Customer Coalition, The Regents of the University of California and the Alliance for Retail Energy Markets (DACC, UC Regents, and AREM), the California Community Choice Association (CalCCA), Pacific Gas and Electric Company (PG&E), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), San Diego Gas & Electric Company (SDG&E), the Small Business Utility Advocates (SBUA) and Southern California Edison Company (SCE), filed and served opening comments on the threshold questions. On January 24, 2025, Cal Advocates, CalCCA, DACC, UC Regents, and AREM, PG&E, SCE, SDG&E, Shell Energy North America (Shell), and SBUA filed and served reply comments.

On May 28, 2025, the assigned Administrative Law Judge (ALJ) issued an *Administrative Law Judge's Ruling Seeking Comment on Procedural Pathway to Address Applications for Provider of Last Resort Status* (ALJ Ruling on Procedural Paths Forward). Pursuant to the schedule set forth in that ruling, on

June 13, 2025, Cal Advocates, CalCCA, PG&E, SBUA, SCE, SDG&E, Shell, and the Utility Consumers' Action Network (UCAN) filed and served opening comments on the ruling. On June 20, 2025, CalCCA, PG&E, SBUA, SCE, SDG&E, and Shell filed and served reply comments.

## **2. Submission Date**

This matter was submitted on June 20, 2025, upon receipt of reply comments on the ALJ Ruling on Procedural Paths Forward.

## **3. Issues Before the Commission**

The Phase 2 Scoping Memo included a set of threshold questions, two primary topic areas for Phase 2 and designated Phase 3 to be a “catch-all” phase to address issues not covered in Phases 1 and 2. The purpose of the threshold questions was to determine which, if any, of the detailed questions listed in the two primary topic areas were necessary to address before issuing a decision. This decision finds that the questions the Commission will need to address depend heavily on the circumstances of the applicant seeking POLR status as well as the specific responsibilities the applicant seeks to assume.

At present, there are no non-IOU entities expressing intent to apply for POLR status. However, there are some parties that expressed interest in more information on serving as a non-IOU POLR, under certain conditions. Given the case-specific nature of the questions and no current interested entities, it is prudent for the Commission not to address the detailed questions in this decision but instead lay out the procedural steps that any applicant must take before applying for POLR status and the process the Commission will adopt to evaluate that application. Accordingly, the questions in the two primary topic areas are

moot because this decision establishes a dedicated process to address all Phase 2 issues, and therefore there is no need for a Phase 3 in the proceeding. As such, only a portion of the threshold questions are relevant to the instant decision. All the threshold questions are listed below and discussed throughout the decision.

### **3.1 Threshold Questions**

- a. Is there an IOU that is interested in transferring POLR responsibilities to a non-IOU LSE within its service territory?
  - i. If so, under what circumstances would the IOU be willing to transfer its POLR responsibilities to a non-IOU LSE?
- b. Is there a non-IOU LSE that is interested in becoming a non-IOU POLR within a specific territory?
  - i. If so, under what circumstances would the non-IOU LSE be willing to accept transfer of POLR responsibilities from an IOU POLR?
- c. What is the scope of the Commission's authority over non-IOU POLR service providers under Pub. Util. Code Section 387?
  - i. How should the Commission apply existing public utility regulatory requirements (e.g., cost-of-service ratemaking, reporting requirements, etc.) to non-IOU POLRs? Does this authority change depend on whether the non-IOU POLR is a Direct Access (DA) Provider, a CCA, or another type of LSE?
  - ii. How should the Commission ensure against cost shifting among the regulated and non-regulated non-IOU services?
- d. Does the Commission's regulation of the non-IOU LSE POLR as a public utility extend to non-POLR activities?

- e. Is an IOU required to join in a Section 387(c) “joint application” when a non-IOU proposes to become a non-IOU POLR?
- f. Regarding Section 387(f) non-IOU LSE POLR “Minimum Threshold Attributes”:
  - i. What are the Section 387(f) minimum financial requirements necessary for the non-IOU LSE POLR?
  - ii. Do these requirements align with the requirements of an IOU POLR?
  - iii. What are the threshold levels of “compliance with all state-mandated procurement requirements” for eligibility for a non-IOU LSE POLR per Section 387(f)(3)?
- g. Will a non-IOU LSE POLR be entitled to cost recovery under the same conditions as the IOU POLR?
- h. What technical, financial, and legal capacity thresholds should be required for non-IOU entities to serve as POLR?
- i. Are there any additional threshold questions beyond those listed above that should be addressed before examining the two primary topic areas set out below?
- j. Are legal briefs necessary to determine whether SB 520 is sufficient to provide the Commission with authority to regulate the rates and terms and conditions of a non-IOU POLR, given the statutory provisions that limit the Commission’s statutory authority to regulate ESP and CCA rates and terms and conditions of service?
- k. If the information provided in response to the threshold questions shows that there is no interest by a non-IOU LSE to become a POLR or for an IOU to transfer POLR responsibilities to a non-IOU LSE should the Commission address the primary area scoping issues set out below in this scoping memo?

### 3.2 Discussion of Threshold Questions

The Phase 2 Scoping Memo laid out a set of threshold questions to determine which issues it could and should resolve in advance of receiving and evaluating a non-IOU entity's application for POLR status, and this discussion continued in parties' opening and reply comments on the Pathways Ruling.

#### 3.2.1 Threshold Question 1

The first question presented to parties concerned IOU interest in transferring POLR responsibilities. Threshold Question 1 states:

- a. Is there an IOU that is interested in transferring POLR responsibilities to a non-IOU LSE within its service territory?*
- b. If so, under what circumstances would the IOU be willing to transfer its POLR responsibilities to a non-IOU LSE?*

PG&E, SCE and SDG&E all indicated that they are not currently interested in transferring POLR responsibility to a non-IOU entity.<sup>4</sup> PG&E and SDG&E stated that they would need more information before considering such a transfer.<sup>5</sup>

#### 3.2.2 Threshold Question 2

The second question presented to parties concerned non-IOU interest in accepting POLR responsibilities. Threshold Question 2 states:

- a. Is there a non-IOU that is interested in becoming a non-IOU POLR within a specific territory?*

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<sup>4</sup> PG&E Opening Comments on Threshold Questions at 2, SCE Opening Comments on Threshold Questions at 5, SDG&E Opening Comments on Threshold Questions at 8.

<sup>5</sup> PG&E Opening Comments on Threshold Questions at 6, SDG&E Opening Comments on Threshold Questions at 9.

b. *Is so, under what circumstances would the non-IOU LSE be willing to accept transfer of POLR responsibilities from an IOU POLR?*

Shell was the only entity to indicate potential interest in applying for POLR status but would only do so if it could serve as POLR only for Commercial and Industrial customers.<sup>6</sup>

CalCCA indicated that some of its members may be interested in pursuing POLR status, but that interest is contingent on the Commission adopting certain elements of CalCCA's proposed regulatory framework for POLRs.<sup>7</sup> AReM's members are not interested in POLR status, and the UC Regents are potentially interested, but they would first need assurance they could serve all their Direct Access-eligible load.<sup>8</sup>

These comments demonstrate that the interest from non-IOU entities in applying for POLR service is contingent on specific conditions (e.g., Shell's interest is contingent on the Commission permitting non-IOU entities to offer POLR service only to certain customer classes). Additionally, each applicant will likely have their own particular set of questions that they need to resolve before they choose to submit an application. Given these circumstances, it is appropriate for the Commission to establish a procedural pathway for a non-IOU entity that has definite interest in serving as POLR to focus a rulemaking on the issues germane to their specific circumstances. The Commission finds the path

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<sup>6</sup> Shell Opening Comments on Threshold Questions at 2.

<sup>7</sup> CalCCA Opening Comments on Threshold Questions at 5 to 6.

<sup>8</sup> DACC, AReM, and the UC Regents' Opening Comments on Threshold Questions at 3.

set forth in this decision to be the best use of its and the parties' resources, if a non-IOU entity seeks POLR status within a specific IOU service territory.

Shell's proposal to create a POLR that only serves certain customers classes within a geographic region is not permitted by statute. While SB 520 expressly contemplates an applicant seeking to assume POLR responsibilities for only a portion of the incumbent POLR's geographic territory, notably, the statute does not describe dividing up POLR obligations by customer class.<sup>9</sup> The fact that the statute expressly allows geographic division, and is silent on customer class divisions, suggests that a non-IOU entity cannot become the POLR for only a class of customers, such as commercial and industrial customers. This reading of the statute is further supported by the requirement that a non-IOU POLR application must include, "[a]n implementation plan to provide for universal access, equitable treatment of all classes of customers, and other customer protections ..." <sup>10</sup> Considering this statutory language, and absent compelling evidence supporting a contrary interpretation, at this time, the Commission understands SB 520 to require that non-IOU POLRs should be prepared to offer service to all classes of customers in their service territory.

### **3.2.3 Threshold Questions 3 and 4**

The third question presented to parties states the following:

- a. *What is the scope of the Commission's authority over non-IOU POLR service providers under Pub. Util. Code Section 387?*

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<sup>9</sup> Section 387(c) ("The application may request a transfer of the responsibilities of the provider of last resort for the entire service territory of the electrical corporation or for a portion of that service territory").

<sup>10</sup> Section 387(c)(7).

- b. How should the Commission apply existing public utility regulatory requirements (e.g. cost of service ratemaking, reporting requirements, etc.) to non-IOU POLRs? Does this authority change depend on whether the non-IOU POLR is a Direct Access (DA) Provider, a CCA, or another type of LSE?*
- c. How Should the Commission ensure against cost shifting among the regulated and non-regulated non-IOU services?*

The fourth question presented to parties states the following:

- a. Does the Commission's regulation of the non-IOU LSE POLR as a public utility extend to non-POLR activities?*

In responding to the set of questions related to the Commission's authority over a non-IOU POLR, the parties fall into one of two broad camps:

Cal Advocates, DACC, AReM, and the UC Regents, PG&E, SCE, and SDG&E argue the Commission should have broad regulatory authority over the POLR and rate-regulate its services as it would for any other public utility,<sup>11</sup> while CalCCA and Shell contend that the Commission's authority over non-IOU POLRs is tightly limited to "POLR-specific services."<sup>12</sup> The parties' comments offer multiple approaches to ensuring the existing public utility regulatory requirements apply to non-IOU POLRs and preventing cross subsidies, ranging from establishing that the Commission has expansive authority over the POLR or whether that authority is definitively circumscribed.

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<sup>11</sup> Cal Advocates Opening Comments on Threshold Questions at 2, DACC, AReM, and the UC Regents' Opening Comments on Threshold Questions at 4, PG&E Opening Comments on Threshold Questions at 2, SCE Opening Comments on Threshold Questions at 5, SDG&E Opening Comments on Threshold Questions at 8.

<sup>12</sup> CalCCA Opening Comments on Threshold Questions at 6, Shell Opening Comments on Threshold Questions at 2.

The necessary extent and nature of the Commission's authority over a non-IOU POLR may depend whether the applicant currently provides Commission-regulated services, and if so, which of the services it currently provides would affect its provision of POLR services; whether the applicant has affiliates or subsidiaries that could create potential conflicts of interest if it assumes the role of POLR; and more. As such, the Commission's authority over non-IOU POLR service providers may depend on the current services the entity provides. Without more specific information as to both the entities and services that may be provided we cannot establish a definitive and comprehensive set of rules.

CalCCA argues that Commission authority should be limited to POLR-specific services. The Commission will need to assess technical and financial capacity to serve as POLR, and substantial record development may be necessary to define the Commission's regulatory authority to ensure the non-IOU entity has the capacity to fulfill POLR services within the scope of Pub. Code Section 387.

Accordingly, this decision orders any non-IOU entity that files an application for POLR status to include certain information in its filing, listed below and throughout this document. This information includes:

- a. What Commission-regulated services, if any, does the applicant currently provide?
- b. If the applicant currently provides Commission-regulated services, should the Commission require the applicant to either:
  - i. Accept full rate regulation by the Commission; or

- ii. Create an affiliate and adhere to affiliate transaction rules similar to the rules that currently apply to the IOUs? Why or why not?
- c. If the Commission ultimately authorizes the applicant to serve as a POLR, will there be any change in the cost, quality, or nature of the Commission-regulated services the applicant currently provides?
- d. If the Commission ultimately authorizes the applicant to serve as a POLR, how will the applicant ensure there will be no cost-shifting between the new POLR customers and the applicant's current customers?
- e. If the Commission ultimately authorizes the applicant to serve as a POLR, will the applicant make use of any existing resources it has (e.g. add staff to an existing team of customer service representatives, use an existing billing service, etc.)?

### **3.2.4 Threshold Question 5**

Threshold Question 5 presented to the parties states:

- a. *Is an IOU required to join in a Section 387(c) "joint application" when a non-IOU proposes to become a non-IOU POLR?*

Cal Advocates, CalCCA, PG&E, SCE, and SDG&E argue that "joint application" does not require the IOU to join and contend the IOU should not be obligated to join the application if it does not support the application.<sup>13</sup>

Shell, alone, interprets the statute as stating that the IOU is a necessary party to any application but the IOU should not be able to unilaterally veto any

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<sup>13</sup> Cal Advocates Opening Comments on Threshold Questions at 7, CalCCA Opening Comments on Threshold Questions at 13 to 15, PG&E Opening Comments on Threshold Questions at 10, SCE Opening Comments on Threshold Questions at 16, SDG&E Opening Comments on Threshold Questions at 27.

application. In that case, Shell asserts the Commission would be inappropriately delegating its decision-making authority to the IOUs.<sup>14</sup>

This decision finds that SB 520 did not intend for the current POLR, IOU or otherwise, to hold veto power over any potential application. SB 520 is clear that the *Commission* is vested with the power to “designate” an LSE as the POLR, and it is the *Commission* that is tasked with “approving” the joint application.<sup>15</sup> To allow the IOU POLR to withhold its consent to join a joint application, and thereby prevent an application from coming before the Commission for its consideration, would undermine SB 520’s non-IOU POLR application process. That said, we agree with Shell in that the requirement for a joint application recognizes that the current POLR would play an important role in the development of any application and in coordinating the transfer of responsibilities, should the need arise. Accordingly, any POLR application must be jointly filed with the relevant IOU or IOUs. Should the IOU or IOUs oppose the application, they may include a statement expressing and explaining their opposition.

If the applicant makes a genuine attempt to coordinate with a relevant IOU, but the IOU is non-responsive or refuses to join the application, the application should identify the IOU and explain the circumstances.

### **3.2.5 Threshold Question 6**

The parties were presented with the following question as threshold Question 6, which states:

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<sup>14</sup> Shell Opening Comments on Threshold Questions at 3.

<sup>15</sup> Section 387(c).

*Regarding Section 387(f) non-IOU LSE POLR “Minimum Threshold Attributes”:*

- a. *What are the Section 387(f) Non-IOU LSE POLR “Minimum Threshold Attributes”?*
- b. *Do these requirements align with the requirements of an IOU POLR?*
- c. *What are the threshold levels of “compliance with all state-mandated procurement requirements” for eligibility for a non-IOU LSE POLR per Section 387(f)(3)?*

Parties present a wide range of proposals at different levels of specificity to address the statutory requirements discussed in this question. As above, recognizing that each applicant would be in a unique circumstance, the application must provide the following information:

- a. Pursuant to Pub. Util. Code Section 387(f)(1), what minimum insurance requirements should the Commission set for the applicant? If these standards differ from the insurance requirements held by the current POLR, describe and justify the discrepancy.
- b. Pursuant to Pub. Util. Code Section 387(f)(2), what minimum financial requirements should the Commission set for the applicant? If these standards differ from the financial requirements held by the current POLR, describe and justify the discrepancy.
- c. Pursuant to Pub. Util. Code Section 387(f)(3), how should the Commission determine that the applicant is capable of complying with all of the state-mandated procurement requirements?
- d. Pursuant to Pub. Util. Code Section 387(f)(4), how should the Commission determine that the applicant is capable of complying with the Commission’s electric service disconnection rules?

- e. Pursuant to Pub. Util. Code Section 387(f)(5), what additional requirements should the Commission impose on the applicant?

The applicant must also submit evidence demonstrating the applicant complies with the requirements proposed in its application.

### **3.2.6 Threshold Question 7**

The seventh question presented to parties states the following:

- a. *Will a non-IOU LSE POLR be entitled to cost recovery under the same conditions as the IOU POLR?*

Parties generally agree that the non-IOU POLR should adopt a cost-recovery framework similar to the framework currently used by the IOUs.<sup>16</sup>

As noted by Cal Advocates, Section 387(g) requires the Commission to “*ensure that the provider of last resort for each service territory receives reasonable cost recovery for being designated and serving as a provider of last resort.*” Cal Advocates gives a representative list of costs that POLRs should be eligible to recover, including the transition costs covered by LSE financial security requirements, incremental costs caused by customer transitions to POLR service through tariffed rates, re-entry fees, and service fees where applicable.<sup>17</sup> Accordingly, any application for POLR status must answer the following questions:

- a. If the Commission ultimately authorizes the applicant to serve as a POLR, what costs should the Commission authorize the POLR to recover?

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<sup>16</sup> Cal Advocates Opening Comments on Threshold Questions at 9, CalCCA Opening Comments on Threshold Questions at 17, PG&E Opening Comments on Threshold Questions at 12, SCE Opening Comments on Threshold Questions at 19, SDG&E Opening Comments on Threshold Questions at 23, Shell Opening Comments on Threshold Questions at 5.

<sup>17</sup> Cal Advocates Opening Comments on Threshold Questions at 10.

- b. If the applicant suggests the POLR should be eligible to recover certain incremental costs, how should the Commission determine what portion of its total costs are attributable to its POLR responsibilities (i.e., incremental)?<sup>18</sup>
- c. From whom should the applicant recover those costs, and how? Describe any proposed tariffs, propose how the applicant would set those tariffs, and propose a process for the applicant to update those costs (i.e., the procedural mechanism and frequency at which the applicant would request changes to the tariff).

### **3.2.7 Threshold Question 8**

The parties were presented with the following language for Threshold Question 8:

- a. *What technical, financial and legal capacity thresholds should be required for non-IOU entities to serve as POLR?*

The IOUs argue that any non-IOU applicant must demonstrate the full set of capabilities necessary to serve as a POLR, such as need forecasting, procurement, portfolio management and contract administration, regulatory engagement and compliance, etc.<sup>19</sup> The Commission agrees that these capabilities must be required of any prospective POLR. Accordingly, any application for POLR status must describe the technical, financial, and legal

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<sup>18</sup> The proposal should distinguish between one-time costs and recurring costs. For example, if a new POLR must expand its customer service capabilities to respond to a greater volume and new types of customer inquiries, it will the immediate costs of hiring new staff and/or developing new protocols. In future years, however, the POLR will likely need to determine how much lower its total costs would be if it did not have the POLR responsibilities.

<sup>19</sup> PG&E Opening Comments on Threshold Questions at 13, SCE Opening Comments on Threshold Questions at 19, SDG&E Opening Comments on Threshold Questions at 32.

capabilities that the applicant requires to properly fulfill its responsibilities and demonstrate that it has those capabilities.

### **3.2.8 Threshold Question 9**

The parties were presented with the following language for Threshold Question 9:

- a. Are there any additional threshold questions beyond those listed above that should be addressed before examining the two primary topic areas set out below?*

PG&E lists six questions that broadly pertain to the POLR's obligation to serve and the legal requirements faced by a CCA that seeks to serve as a CCA.<sup>20</sup> As these questions may not apply equally to all applicants, any application for POLR status must describe which customers the applicant believes it would have an obligation to serve, the nature of the service the applicant is obligated to provide, and the legal basis for this obligation. As legal questions specific to CCAs may not be relevant to the applicant, the Commission will identify and resolve pertinent legal questions as relevant to the specific applicant in the course of reviewing the application.

### **3.2.9 Threshold Question 10**

Threshold Question 10 states:

- a. Are legal briefs necessary to determine whether SB 520 is sufficient to provide the Commission with authority to regulate the rates and terms and conditions of a non-IOU POLR, given the statutory provisions that limit the Commission's statutory authority to regulate ESP and CCA rates and terms and conditions of service?*

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<sup>20</sup> PG&E Opening Comments on Threshold Questions at 13, SCE Opening Comments on Threshold Questions at 13.

Party comments on this question largely focused on whether legal briefs were necessary to establish the extent of the Commission's authority over a non-IOU POLR.<sup>21</sup> As noted in Section 1.3, the Commission cannot evaluate these questions until it has an application to review. Accordingly, legal briefs are not necessary at this time because this decision does not resolve those questions. The individual applications will consider briefs on these issues as applied to each specific circumstance.

### **3.2.10 Threshold Question 11**

Threshold Question 11 states:

- a. If the information provided in response to the threshold questions shows that there is no interest by a non-IOU LSE to become a POLR or for an IOU to transfer POLR responsibilities to a non-IOU LSE should the Commission address the primary area scoping issues set out below in the scoping memo?*

The ALJ Ruling on Procedural Paths Forward offered a specific path forward on which parties provided comments, rendering party comments on this question moot. Party comments on that ruling are discussed below.

## **4. Discussion of ALJ Ruling on Procedural Paths Forward**

The ALJ Ruling on Procedural Paths Forward requested party comments on establishing a process to address a future application for POLR status from a non-IOU entity. Under that framework, the non-IOU entity that intends to file an application for Provider of Last Resort Status would first file and serve a

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<sup>21</sup> Cal Advocates Opening Comments on Threshold Questions at 13, CalCCA Opening Comments on Threshold Questions at 13, SCE Opening Comments on Threshold Questions at 20, DACC, AReM, and the UC Regents Opening Comments on Threshold Questions at 13, Shell Opening Comments on Threshold Questions at 5.

Petition for Rulemaking at least 12-months before filing such an application.

The petition would establish a rulemaking through which the Commission would evaluate the petitioner's application and simultaneously set the requirements for similarly situated non-IOU entities to seek POLR status.

Parties broadly supported this approach, and some suggested certain modifications or additional conclusions. SBUA and UCAN supported the approach outright;<sup>22</sup> CalCCA supported the proposal but asked the Commission to clarify the extent of the Commission's authority over an applicant's non-POLR services; PG&E asked for additional requirements such as a demonstration of local governments' support for the application; and SCE suggested a more streamlined process that would have the issues identified in the ALJ Ruling designated for a Petition to Rulemaking be resolved directly in the application process.<sup>23</sup>

As described above, this decision adopts an approach similar to that outlined in the ALJ Ruling on Procedural Paths forward with modifications consistent with SCE's recommendations.<sup>24</sup> Specifically, we recognize that the issues to be addressed in what was to be presented in a Petition for Rulemaking by a proposed non-IOU POLR are so fact specific as to the individual petitioner that we find it would not be suited to a general rulemaking process. The Commission appreciates SCE's proposal for a more streamlined process and finds the individual application approach to be the most appropriate for

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<sup>22</sup> SBUA at 2, UCAN at 2.

<sup>23</sup> CalCCA at 5, PG&E at 4, SCE at 6.

<sup>24</sup> SCE June 13, 2025, Comments at 6-9

ensuring deliberative attention is given to both the fundamental requirements and the fact specific nature of each non-IOU POLR application.

Shell asked the Commission to resolve the questions of whether a non-IOU entity can apply to serve as POLR for a specific customer class and whether the IOU currently serving as POLR must support the application.<sup>25</sup> This decision has resolved Shell's questions.

Similar to the manner in which Shell identified issues that needed to be resolved before it considered applying for POLR status, POLR applications submitted pursuant to this decision may identify their own threshold questions that, depending on the outcome, may influence whether the applicant would continue to seek POLR status. If the applicant identifies these questions in its application, the Commission will prioritize its review of those sections to provide clarity on these questions before issuing a final determination on the application.

## **5. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. No written comments were submitted.

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<sup>25</sup> Shell at 5.

**6. Procedural Matters**

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

**7. Comments on Proposed Decision**

The proposed decision of Commissioner Darcie L. Houck in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on December 31, 2025 by PG&E and CalCCA, SBUA, SCE, SDG&E, and SENA on January 2, 2026. Reply comments were filed on January 7, 2026 by Cal Advocates, CalCCA, PG&E, SCE, and SDG&E.

CalCCA requests that proposed decision should be modified to state that the Commission will, rather than may, prioritize its review of any threshold questions the applicant has that would influence whether the applicant would continue to seek POLR status. The decision has been modified in response to CalCCA's comments.

SBUA notes that the proposed decision mistakenly omits SBUA from the list of parties that filed Opening Comments on the Phase 2 Scoping Memo. This error has been corrected.

SDG&E recommends the Commission add the following question to Appendix A: "What POLR service(s) does the applicant seek to provide? Provide a legal basis for the definition of POLR service applied in this application." SDG&E seeks to ensure that applicants consider how eliminating the IOU's role

as POLR changes the IOU POLR's relationship with all its customers, both existing and new. This recommendation has been adopted.

SDG&E also requests that the Commission direct that PG&E, SCE, and SDG&E shall be named as respondents to any application for POLR status.<sup>26</sup> SDG&E argues this will ensure that the IOUs are aware of and can participate in proceedings that may set industry-wide rules. This recommendation has been adopted.

Shell argues the proposed decision errs in its conclusion that statute prohibits dividing up POLR obligations by customer class. Accordingly, Shell recommends the Commission not rule on this question until a later date. Shell's comments raise no new arguments and are not adopted.

## **8. Assignment of Proceeding**

Darcie L. Houck is the assigned Commissioner and Andrew Dugowson is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. Senate Bill (SB) 520 requires the Commission to develop threshold attributes for an entity other than an Investor-Owned Utility (IOU) that seeks to serve as the Provider of Last Resort (POLR) in a given area for a given subset of electricity customers. These attributes include: minimum insurance requirements; minimum financial requirements; the ability to comply with the Resource Adequacy, Renewables Portfolio Standard, and other procurement

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<sup>26</sup> SDG&E Opening Comments at 6 to 7.

requirements mandated by the State; the ability to comply with electric service disconnections rules; and any other requirements the Commission determines are necessary to ensure the non-IOU POLR can fulfill its obligation to serve.

2. The process to determine the necessary attributes listed above, including determining whether any additional attributes are necessary to ensure a given non-IOU entity can meet the POLR obligations, are highly case specific, for example, a municipal utility, a Community Choice Aggregator (CCA), and a Direct Access (DA) provider may each require different approaches to demonstrating their ability to comply with Commission-and State-mandated procurement programs; furthermore, within each category of Load-Serving Entity (LSE), different applicants may take different approaches to demonstrating their ability to comply.

3. No non-IOU entity has expressed an intent to apply to serve as the POLR to serve all the electric customers in a given geographic region. It is uncertain when or whether any non-IOU entity may choose to apply for POLR status.

4. Statute does not permit a POLR to provide service to some, but not all, customer classes in a given geographic region

5. Parties to this proceeding generally agree that it would be an inefficient use of the Commission's and stakeholder's resources to attempt to develop specific guidance for hypothetical applicants that ultimately may not apply for POLR status.

6. Once a non-IOU entity determines that it intends to apply for POLR status, the Commission can adapt the application development and review process to the specific circumstances of the applicant.

**Conclusions of Law**

1. It is reasonable and consistent with Senate Bill 520 for the Commission to establish a process for a non-IOU entity to file an application seeking POLR status with a proposal for the situation-specific requirements for that non-IOU entity to serve as POLR.
2. It is reasonable for the Commission to require a non-IOU entity that intends to seek POLR status to provide information in support of developing the criteria necessary to serve as a POLR.
3. It is reasonable for the Commission to require a non-IOU entity that files an application for POLR status to list Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company as respondents.
4. It is reasonable to affirm all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding.
5. It is reasonable to deny all motions not ruled on in this proceeding.
6. It is reasonable to close this rulemaking.

**O R D E R****IT IS ORDERED** that:

1. Any entity that is not an investor-owned utility that files an application for Provider of Last Resort Status shall include in that application all information responsive to the questions set out in Appendix A to this decision or any other information sought by the Commission to ensure the applicant meets the requirements set forth in Senate Bill 520, and include supporting evidence demonstrating the petitioner meets those criteria.
2. Any entity that is not an investor-owned utility that files an application for Provider of Last Resort status shall list Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company as respondents.
3. Rulemaking 21-03-011 is closed.
4. This order is effective today.

Dated \_\_\_\_\_, 2026, at San Francisco, California.

**APPENDIX A****Questions and Issues to Be Addressed in POLR Application****I. Nature of the Proposed Service**

1. Where and for which customers does the applicant seek to serve as POLR?
2. What POLR service(s) does the applicant seek to provide? Provide a legal basis for the definition of POLR service applied in this application.
3. Which customers does the applicant have an obligation to serve and what is the nature of the service the applicant is obligated to provide? What is the legal basis for this obligation?
4. In which IOU or IOUs' territory or territories' does the applicant seek POLR status?
5. How and to what extent has the applicant engaged with the customers and their local representatives regarding the proposed POLR service?
6. How and to what extent has the applicant engaged with the IOU or IOUs that currently serve as POLR in those regions?
7. Have those IOU or IOUs agreed to file a joint application for the applicant to assume POLR status? If not, propose a process and timeline by which joint application coordination can be effectuated, including a meet and confer process if the parties are unable to find agreement.

**II. Background, Capabilities, and Requirements of the Applicant**

1. What Commission-regulated services, if any, does the applicant currently provide?
2. If the Commission ultimately authorizes the applicant to serve as a POLR, will there be any change in the cost,

quality, or nature of the Commission-regulated services the applicant currently provides?

3. Pursuant to Pub. Util. Code Section 387(f)(1), what minimum insurance requirements should the Commission set for the applicant? If these standards differ from the insurance requirements held by the current POLR, describe and justify the discrepancy.
4. Pursuant to Pub. Util. Code Section 387(f)(2), what minimum financial requirements should the Commission set for the applicant? If these standards differ from the financial requirements held by the current POLR, describe and justify the discrepancy.
5. Pursuant to Pub. Util. Code Section 387(f)(3), how should the Commission determine that the applicant is capable of complying with all of the state-mandated procurement requirements?
6. Pursuant to Pub. Util. Code Section 387(f)(4), how should the Commission determine that the applicant is capable of complying with the Commission's electric service disconnection rules?
7. What technical, financial, and legal capabilities must the applicant have to properly fulfill its responsibilities? How does the applicant demonstrate it has those capabilities?
8. Pursuant to Pub. Util. Code Section 387(f)(5), what additional requirements should the Commission impose on the applicant

### **III. Commission Regulation over the Applicant**

1. If the applicant currently provides Commission-regulated services, should the Commission require the applicant to either (1) accept full rate regulation by the Commission or (2) create an affiliate and adhere to affiliate transaction rules similar to the rules that currently apply to the IOUs? Why or why not?

2. If the Commission ultimately authorizes the applicant to serve as a POLR:
  - a. What costs should the Commission authorize the POLR to recover?
  - b. How will the applicant ensure there will be no cost-shifting between the new POLR customers and the applicant's current customers?
  - c. Will the applicant make use of any existing resources it currently has (e.g., add staff to an existing team of customer service representatives, use an existing billing service, etc.)?
  - d. If the applicant suggests the POLR should be eligible to recover certain incremental costs, how should the Commission determine what portion of its total costs are attributable to its POLR responsibilities (i.e., incremental)?<sup>27</sup>
  - e. From whom should the applicant recover those costs, and how? Describe any proposed tariffs, propose how the applicant would set those tariffs, and propose a process for the applicant to update those costs (i.e., the procedural mechanism and frequency at which the applicant would request changes to the tariff).

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<sup>27</sup> The proposal should distinguish between one-time costs and recurring costs. For example, if a new POLR must expand its customer service capabilities to respond to a greater volume and new types of customer inquiries, it will the immediate costs of hiring new staff and/or developing new protocols. In future years, however, the POLR will likely need to determine how much lower its total costs would be if it did not have the POLR responsibilities.